

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Schools and Libraries Universal Service)	CC Docket 02-6
Support Mechanism)	

COMMENTS OF COMCAST CORPORATION

Comcast Corporation (Comcast) hereby submits these comments in response to the Federal Communications Commission's (Commission) Notice of Proposed Rulemaking released in the above-captioned proceeding.¹

I. INTRODUCTION AND SUMMARY

The federal schools and libraries universal service support fund, or the "E-rate program," has proven to be a critical mechanism for ensuring that this country's educational institutions have access to the advanced telecommunications resources necessary to fulfill their educational mission in the 21st century. The Commission should allow these institutions to continue to receive E-rate support on a Priority One basis for interconnected Voice over Internet Protocol (VoIP) services, which offer innovative service features and cost savings. Because the Commission has not yet classified interconnected VoIP service as a telecommunications or information service, it should continue to be categorized in the Miscellaneous category for E-rate purposes. As a voice service, interconnected VoIP does not enable a user to obtain access to objectionable online content and, consequently, should not trigger application of the requirements of the Children's Internet Protection Act (CIPA).

¹ *Schools and Libraries Universal Service Support Mechanism*, Notice of Proposed Rulemaking, 23 FCC Rcd 11703 (2008) (*Notice*).

In addition, for the reasons set forth below, the Commission should also continue to make unlit fiber ineligible for E-rate funding. If, however, the Commission determines that unlit fiber should be added to the Eligible Services List (ESL), an applicant should be eligible for funding for such facilities only if the applicant can demonstrate that its use of dark fiber, including the costs of lighting it, would cost less than a “lit” telecommunications service or information service that could meet the same need and provide the same total capacity. Implementation of such a fiscally prudent condition would avoid unnecessary waste of limited financial resources.

II. INTERCONNECTED VOIP SERVICE SHOULD REMAIN ELIGIBLE FOR FEDERAL E-RATE SUPPORT

Comcast supports the *Notice*’s tentative conclusion that interconnected VoIP should continue to be designated as a supported service for the E-rate program.² As the *Notice* recognizes,³ interconnected VoIP service has become an increasingly popular voice communications offering, in part because of the cost efficiencies and service features that the technology offers. The *Notice* recognizes that the “inclusion of interconnected VoIP service as an eligible service enhances the options available to schools and libraries to effectuate meaningful communications among parents, teachers, and school and library administrators.”⁴ The removal of interconnected VoIP from the 2009 ESL would harm the many schools and libraries that, like the millions of individual VoIP subscribers, benefit from the advantages that that VoIP service provides over traditional telephony service.

² *Notice* ¶ 12.

³ *Id.*

⁴ *Id.*

Interconnected VoIP, moreover, should continue to be categorized in the Miscellaneous category for purposes of E-rate program funding. Interconnected VoIP does not fit neatly into any of the four primary funding categories. As the *Notice* acknowledges, the Commission has not yet classified interconnected VoIP service as a telecommunications service or an information service.⁵ Pending a decision on the underlying regulatory classification issue, the Commission should continue to assign interconnected VoIP service to the Miscellaneous category.⁶

The *Notice* asks whether applicants requesting funding for interconnected VoIP services should comply with CIPA if the applicant does not also receive E-rate funds for Internet access, Internet service, or internal connections.⁷ VoIP applicants should not be required to certify compliance with CIPA to qualify for E-rate discounts on interconnected VoIP service, because access to VoIP does not raise the concerns that CIPA is intended to address.

CIPA requires schools and libraries that have computers with Internet access to implement certain safety policies. Specifically, schools and libraries seeking universal service discounts for Internet access or internal connections must have implemented measures to block or filter access by both minors and adults to visual depictions obtained via the Internet that are: (1) obscene; or (2) child pornography; or, (3) with respect to the use of computers with Internet access by minors, harmful to minors.⁸ They must also

⁵ *Id.* ¶ 11.

⁶ As a voice communications service, interconnected VoIP should retain its Priority One status.

⁷ *Notice* ¶ 13.

⁸ *Federal-State Joint Board on Universal Service; Children's Internet Protection Act*, Report and Order, 16 FCC Rcd 8182, ¶ 6 (2001); 47 C.F.R. § 54.520(c)(i).

certify that they have implemented a safety policy to: (1) prevent access by minors to “inappropriate matter” on the Internet; (2) protect the safety of minors when using e-mail, chat rooms, and other forms of direct electronic communications; (3) prevent hacking by minors online; and (4) prevent unauthorized disclosure of personal identification information regarding minors online.⁹

The focus of CIPA is the protection of minors from risks posed by actions or images to which children may gain access through the Internet. Interconnected VoIP service, in contrast, is a voice service that does not provide users with access to images and other web site features that led to the enactment of CIPA. Thus, requiring schools and libraries that only apply for funding for interconnected VoIP service discounts to certify compliance with CIPA would not advance the public policy goals that CIPA seeks to promote.¹⁰

Moreover, there is nothing in the text of the statute that would suggest that Congress intended to require applicants for discounts on voice services, such as interconnected VoIP services, to certify CIPA compliance. The statute expressly excludes from the certification requirement any school or library that receives discounts “for purposes other than the provision of Internet access, Internet service, or internal connections.”¹¹ Thus, for example, a school with computers that have Internet access that seeks a discount only for a telecommunications voice service is not required to attest to its compliance with CIPA. There is no textual basis for speculating that Congress

⁹ 47 C.F.R. § 54.520(c)(ii).

¹⁰ Applicants that also seek discounts for Internet access service, of course, would be required to certify compliance.

¹¹ 47 U.S.C. §§ 254(h)(5)(A)(ii), 254(h)(6)(A)(ii).

intended to require CIPA certification by applicants seeking a discount for interconnected VoIP services. Interconnected VoIP service is not classified by the statute or the Commission as “Internet access,” “Internet service,” or an “internal connection.”¹² Accordingly, CIPA compliance is not triggered by schools or libraries applying for discounts for interconnected VoIP service.

III. DARK FIBER SHOULD REMAIN INELIGIBLE FOR E-RATE FUNDING

Since 2003, the Commission has made it clear that dark fiber is ineligible for E-rate funding.¹³ The *Notice* asks whether the Commission should change that determination to allow schools and libraries to receive support for the acquisition of unlit fiber.¹⁴

There are sound policy reasons that militate against expanding the ESL to include dark fiber. Most notably, in all but the most exceptional circumstances, it is likely to be more costly for an applicant to obtain the services it requires by lighting its own dark fiber than by subscribing to an end-to-end service from a communications provider. Assuming, *arguendo*, however, that the Commission were to make unlit fiber eligible for E-rate funding, it should seek to avoid unnecessary waste by permitting an applicant to obtain a discount for dark fiber only if it can demonstrate that its use of dark fiber (including the costs of lighting it) would cost less than a “lit” telecommunications service

¹² See *Notice* ¶ 11 (“The Commission has not yet determined if interconnected VoIP services are telecommunications services or information services.”).

¹³ See *Schools and Libraries Universal Service Support Mechanism*, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 26912, ¶ 76 (2003).

¹⁴ *Notice* ¶ 17.

or information service that could meet the same need and provide the same total capacity.¹⁵

In other contexts, the Commission and USAC have emphasized the importance of obtaining the most cost-effective service. For example, except in established rural areas where no alternatives exist, the E-rate program does not reimburse applicants for the initial construction costs of Wide-Area Network facilities built for the exclusive use of the applicant.¹⁶ USAC has observed that “applicants are expected to use the shared infrastructure facilities of service providers in order to obtain the most cost-effective service.”¹⁷ The same financially prudent course would be warranted in the case of unlit fiber were it to be added to the ESL.

IV. CONCLUSION

For the foregoing reasons, the Commission should retain interconnected VoIP service as a Priority One service eligible for support from the federal schools and libraries universal service support program, and should classify it in the Miscellaneous category. Applicants seeking discounts only for interconnected VoIP service should not be required to certify their compliance with CIPA. Dark fiber should remain ineligible for E-rate funding. If dark fiber were added to the ESL, it should be supported only if the costs of using it (including the costs of lighting it) would cost less than a “lit” telecommunications

¹⁵ If dark fiber is added to the 2009 ESL, it should be assigned a Priority Two status because it is essentially equivalent to an “internal connection.”

¹⁶ See Universal Service Administrative Company, *Wide Area Network (WAN) Fact Sheet*, at no. 4, “Evaluation of the Applicant Ownership Prohibition,” available at: <<http://www.usac.org/sl/applicants/step06/wide-area-network-fact-sheet.aspx#1?>>.

¹⁷ *Id.*

service or information service that could meet the same need and provide the same total capacity.

Respectfully submitted,

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Certificate of Service

I hereby certify that on this 18th day of September, 2008, I caused a true and correct copy of the foregoing Comments of Comcast Corporation to be mailed by electronic mail to:

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